

MINUTES OF THE
PRIVATE PROTECTIVE SERVICES BOARD MEETING
FEBRUARY 18, 2010
HOLIDAY INN RALEIGH NORTH
2805 HIGHWOODS BLVD.
RALEIGH, NC 27604

BOARD MEMBER PRESENT

Richard Allen
Ron Burris
David Pendry
James Stevens
Bill Booth
Sally Pleasant
Brenda Bishop
Mack Donaldson
Steve Johnson
Robert M. Clark

BOARD MEMBERS ABSENT

Sheriff Ashe
Sheriff Jenkins
Eric Jones

STAFF PRESENT

Terry Wright – Director
Anthony Bonapart – Deputy Director
Charles McDarris – Attorney
Larry Liggins – Field Services Supervisor
Phillip Stephenson – Investigator
Joyce McClure - Board Secretary
Garcia Graham – Licensing Assistant

GUEST PRESENT

David Arndt
Jeff Cathcart
Bill Dover
Scott Siano
Fred McKinney
Dorian Dehnel
Jim Mabry

Jeff Kiker
Sybil Richards
Audra Coleman
Jim Peeden
Nick Nicholson
Kathleen Gleason
Ryan Johnson

Kerry Graves
Larry Flannery
Ruth Reynolds
Lorin Mueller
Danny K. Barham
Leroy Everhart
David Pettingell

Nels Roseland
Eddie Harrant
Gary Thomas
Carrell Taylor
Tim McIntyre
Michael Grissom

Gary Pastor
Don Williams
Sara Jordan
Kim Calhoun
Douglas McNeill
George Saleesby

Neil Mayzik
Rick Sanders
Brant Phillips
Jim Foster
Robert Pleasant
Rick Sanders

Chairman Allen called the February 18, 2010 Private Protective Services Board meeting to order at 9:35a.m. Mr. Allen welcomed all guests and requested they introduce themselves. Mr. Allen requested all phones and pagers be turned off during the meeting.

Attorney Charles McDarris explained the State Ethics Act, which addresses the ethics of public officials. This Act states specifically that if any Board Member has any conflict of interest, potential conflict of interest, or the appearance of a conflict, he or she should remove themselves from deliberation and vote on that matter and so state on the record.

GOOD OF THE ORDER:

Mr. Larry Flannery, President of NCAPI, stated that at the NCAPI meeting that was held in January, the NCAPI held their elections for their new Board; Larry Flannery, Ruth Reynolds, Audra Coleman, Gary Pastor, Jeff Kiker and Sybil Richards were all elected to their Board.

Mr. Flannery also stated that U.S. Senator Richard Burr was the keynote speaker at the meeting and he gave a presentation on Homeland Security issues.

Mr. Flannery advised that the NCAPI is working on their Conference to be held in May 2010 and will update the Board at a future meeting.

APPROVAL OF THE DECEMBER 10, 2009 MEETING MINUTES:

**MOTION BY MR. STEVENS TO ACCEPT THE MINUTES AS PRESENTED;
SECONDED BY MRS. PLEASANT; MOTION CARRIED.**

Chairman Allen changed the order of the Agenda and called upon the Finance Committee to present their report.

FINANCE COMMITTEE:

Mrs. Pleasant, Chairperson of the Finance Committee, gave an overview of the Committee Meeting that was held on February 17, 2010 at 5:00 p.m. Mrs. Pleasant then turned the report over to Director Wright and Mr. Nels Roseland, Deputy Chief of Staff and Chief Financial Officer for the Department of Justice.

Mr. Wright provided the Board with an overview of the topics that were discussed at the Finance Committee meeting the previous day. Mr. Wright stated that as of January 31,

2010 the operating budget stands at \$271,037.22 and there was a 4.88% decrease in registration applications in the past year. Mr. Wright reminded the Board that at the June 2009 meeting, the Board had adopted a policy of not charging a fee to licensees that changed companies. The Board later implemented rules to assess a \$100.00 transfer fee. However, prior to implementation of the rule, the Board lost significant revenue as a result of the change. Mr. Wright also reported that at the June 2009 meeting the Board had approved rules to increase licensing and registration fees. However, the rules are still going through the rules process and will not take effect until June 2010. Mr. Wright has made some recommendations to reduce operating expenses. Mr. Wright stated that PPS will initiate a hiring freeze and not fill three positions that are currently vacant. Those positions are the Investigator position assigned to the Hickory office, Training Officer Position and the Field Services Supervisor position. Once the budget has improved steps will be taken to fill each position. Director Wright also advised that PPS would eliminate the remaining temporary position assigned to the Registration Unit and that the agency has turned in two of the state vehicles which would save additional revenue.

Director Wright also recommended the Board adopt a policy that all applicants applying for a license must submit a credit check from Equifax with their initial license application and that the credit check must be submitted to PPS within 30 days of being compiled by the reporting agency.

MOTION BY JUDGE BURRIS TO ADOPT A RULE TO INCORPORATE THE SUBMISSION OF AN EQUIFAX CREDIT CHECK RUN WITHIN THE LAST 30 DAYS PRIOR TO THE SUBMISSION OF THE LICENSE APPLICATION; SECONDED BY MRS. PLEASANT; MOTION CARRIED

There was a Consensus to refer the issue to the 74C Legislative Committee for further discussion regarding a statutory change to allow the collection of a fee for the credit check.

Mr. Nels Roseland stated that with the restructuring of the expenses and the projected increase in fees as of June 2010, the transfer of funds from the Education Fund would be a last resort. He will report back to the Board in April if they see any further drop in revenue.

Mr. Booth emphasized that the Agency is a fee supported agency not a tax supported agency and as such cannot ask the General Assembly for an increase in the budget.

Mr. Roseland noted that with the two financial objectives of reducing expenses and the increase of fees, the Agency should be on the right track until the end of this fiscal year. However, it is time to look at long-term plans and make changes to automating some of the PPS systems. Hopefully by automating some of the systems this would increase the turnaround time to receive registrations and reduce expenses by doing more with less. The IT team from the Department of Justice has been engaged to improve and modernize the process. They are to look at updating the database, to implement the acceptance of

credit card payments, scanning all check deposits directly to the financial institution, which will save time for Staff.

Mr. Roseland stated that the Operating Account is currently in a non-interest bearing account and recommended the Board consider initiating a Legislative change to move the account to an interest bearing account, which will generate additional revenue. The bottom line is that prudent measures have been taken to make sure that the Agency will be in good financial shape until June, the end of the fiscal year.

Mr. Donaldson expressed a concern that the frozen positions will be lost. Mr. Roseland stated that it can occur in general fund supported positions but he has never seen this occur in fee supported positions.

Mr. Johnson expressed concern in regards to collecting the percentage fee that is charged by the credit card companies. Mr. McDarris stated that it would require a statutory change to collect fees. Mr. Roseland will check with the State Controllers office regarding the list of approved vendors that are already in place and have set fees. This could be considered an administrative expense and it would reduce the staff time and increase the turn around time in processing.

**MOTION BY MR. BOOTH TO ACCEPT THE FINANCIAL REPORT;
SECONDED BY MR. CLARK; MOTION CARRIED**

Chairman Allen noted that Mr. Jones's wife was having health issues and that was the reason he was not at the Board meeting. He also stated that Sheriff Ashe was unable to attend due to his campaign for re-election. He announced that Mr. Tim Pressley had taken a position with Training and Standards and that Mr. Larry Liggins was retiring. Mr. Allen noted that Mr. Pendry was filing to run for Sheriff in Wilkes County.

SCREENING COMMITTEE REPORT:

Mrs. Bishop reported that the Screening Committee met on Wednesday February 17, 2010 from 2:00 PM until 5:50 PM to review a total of 48 applications with 3 Denials and 7 Deferrals; the remainder of the applications were approved (see report). Committee members were, Mrs. Bishop, Mr. Pendry, Mrs. Pleasant and Mr. Johnson. Mrs. Bishop read the report for the record.

Mrs. Bishop presented the following registration report for the period of December 15, 2009 through February 16, 2010. Total registrations 3,302; armed totals were 480, which includes 175 new, 287 renewals, 1 duplicate and 17 reissue/dual. There were 5 renewal Private Investigators and 5 new Private Investigator Associates. Unarmed totals were 2,812, which include 1001 new, 1730 renewals, 70 transfer, 7 duplicates and 4 reissues/dual. Total denials 510 of which 174 for cause and 336 for correctable. There were 460 applications approved which were previously denied for a total of 970 denials reviewed.

Mr. Donaldson recused himself from #11 Jeffrey Chamblee and #29 Lynn Oliver. Mr. Stevens recused himself from #29 Lynn Oliver and Mrs. Pleasant recused herself from #5 Terry Blue.

Judge Burris noted that #22-#25 were missing on the original Screening Report.

MOTION BY MR. JOHNSON TO ACCEPT THE SCREENING REPORT AND THE REGISTRATION REPORT; SECONDED BY STEVENS; MOTION CARRIED.

GRIEVANCE COMMITTEE REPORT:

Judge Burris reported the committee met on Wednesday February 17, 2010 from 8:00 AM until 11:50 AM and heard a total of thirteen cases. The committee members were Judge Burris, Mr. Booth, Mr. Stevens and Mr. Donaldson. Judge Burris presented the attached report. (See attachment)

The Grievance Committee advised the Board that complaint number 2009-PPS-064 was due to the company withdrawing their Proprietary License due to problems with the registration of their guards.

MOTION BY MRS. PLEASANT TO ACCEPT THE GRIEVANCE COMMITTEE REPORT; SECONDED BY MR. PENDRY; MOTION CARRIED.

FINAL AGENCY DECISIONS - NONE

Attorney Charles McDarris and Attorney Kathleen Gleason presented the request for a company name change for Guilford Security Inc. This request was a result of a previous complaint. Staff was concerned about the similarity of names.

Attorney Gleason stated the case had been contested and heard by Judge Morrison who upheld the Board's decision to revoke all licenses including the company license. Ms. Gleason stated that the courier company that was involved was being dissolved but the investigative company and the security company was changing the company names. She stated that Powers Investigations was to become Guilford Investigations, Inc. and Guilford Security Inc. was to become Guilford Security Patrol Service, Inc. The Board did not agree to the name for the security company, therefore, Attorney Gleason suggested the name of Gate City Security Agency.

MOTION BY JUDGE BURRIS THAT GUILFORD INVESTIGATIONS, INC. BE APPROVED AND GATES CITY SECURITY AGENCY, INC. BE APPROVED UPON RE-APPLICATION; SECONDED BY MR. BOOTH; MOTION CARRIED

TRAINING & EDUCATION COMMITTEE:

Mr. Stevens advised the Training & Education Committee met on Thursday February 18, 2010 from 8:30 AM. until 9:15 AM. The committee members were Mr. Stevens, Mr. Allen, Mr. Booth, Mrs. Pleasant and Mr. Johnson.

Mr. Stevens read the training report. The following trainer courses are scheduled:

February 22-26, 2010	General Trainer Course. WTCC
March 2, 2010	Firearms Trainer re-certification course, NCJA
April 5-9, 2010	Firearms Trainer certification course, NCJA

The following PPS trainer courses have been completed:

November 12, 2009	Firearms Trainer certification course, NCJA
November 16-20, 2009	General Trainer Course, WTCC

Mr. Stevens stated the enrollment in the training courses would be addressed to Staff.

Mr. Stevens gave a summary of the letter that was sent to the Training Officer by Mr. Pettingell regarding ballistic equivalent ammunition.

Mr. Stevens stated that the current sub committee for Continuing Education Course approval would rotate out after the April meeting; the current members are Mrs. Pleasant, Mr. Booth and Mr. Stevens. He stated that Staff had submitted a Course Application that will allow credit for Board meeting attendance. The sub committee approved the course and is recommending the approval of the Board.

MOTION BY MR. BOOTH TO APPROVE THE COURSE; SECONDED BY MRS. PLEASANT; MOTION CARRIED

A continuing education course was submitted by the Tennessee Professional Investigators Association that the sub committee did not feel was complete and recommended that it be returned to be completed.

MOTION BY MR. CLARK TO ACCEPT THE RECOMMENDATION OF THE SUB COMMITTEE TO AMMEND THE APPLICATION; SECONDED BY MR. BOOTH; MOTION CARRIED

MOTION BY MR. JOHNSON TO ACCEPT THE REPORT AS PRESENTED; SECONDED BY MR. CLARK; MOTION CARRIED

GRIEVANCE COMMITTEE REPORT - NONE

SCREENING COMMITTEE REPORT - NONE

OUT OF STATE CRIMINAL RECORD CHECKS - NONE

74C RE-WRITE COMMITTEE:

Judge Burris stated that the 74C Legislature Committee met February 18, 2010 from 7:30 AM to 8:25 AM. The Committee discussed three issues.

The first issue was the digital forensics report that Mrs. Pleasant had drafted for the Legislature to be presented in May. The committee will consider the draft and bring it back to the April meeting.

The next item was a process orientation for out- of- state licensees as many applicants lack an understanding of G.S. 74C. The committee made a recommendation to adopt the following as a rule:

“Each applicant for a license shall meet personally with either a Board investigator, the Screening Committee, the Director or a Board representative designated by the Director prior to being issued a license. The applicant shall discuss the provisions of G.S. 74C and the administrative rules during the personal meeting. The applicant shall sign a form provided by the Board indicating that they have reviewed the information with the Board’s representative and that they have an understanding of G.S. 74C and the administrative rules.”

The Committee recommended that the requirement of two years of courier experience be removed to indicate no experience is required for the courier license

MOTION BY MR. BOOTH FOR MR. MCDARRIS TO DRAFT THE RULE ELIMINATING THE EXPERIENCE REQUIREMENTS FOR COURIERS; SECONDED BY MR. STEVENS; MOTION CARRIED

Judge Burris stated that the Committee is making a master list of changes for 74C.

MOTION BY MR. BOOTH TO ACCEPT THE 74C LEGISLATIVE COMMITTEE REPORT; SECONDED BY MR. PENDRY; MOTION CARRIED

OLD BUSINESS – NONE

NEW BUSINESS: - NONE

DIRECTOR’S REPORT:

Mr. Wright presented his written report. The budget as of January 31, 2010 is \$271,037.22; the Education Fund is \$105,988.25. As of February 16, 2010 we have a total of 12,779 PPS registrations, 1,787 licenses, 439 certifications, one endorsement for a total of 15,006 for PPS. Active licenses and registrations for both Boards are 20,708. Mr. Wright noted that there have been a total of 2,550 various correspondences printed from the PPS database, 4,396 registration cards printed from the new identification card system, and 4,846 applications received since the last Board meeting.

An additional item to be discussed was an email from Sandy Sakhon asking the Board to remove her company from the NSF list so that they may continue to send company checks instead of money orders or certified checks. The current policy of the PPSB is that once you submit a NSF check you go on the list to pay by money order or certified checks indefinitely.

**MOTION BY JUDGE BURRIS TO DENY THE REQUEST;
SECONDED BY MRS. BISHOP; MOTION CARRIED**

Mr. Wright advised the Board that the Alarm Systems Licensing Board did adopt a policy that individuals/companies that are on the NSF list would come off the list after two years if no additional checks were returned for insufficient funds.

MOTION BY JUDGE BURRIS TO ADOPT THE TWO YEAR RULE THAT IS USED BY THE ALARM BOARD TO BE REMOVED FROM THE NSF LIST AFTER TWO YEARS IF NO ADDITIONAL VIOLATIONS; SECONDED BY MR. BOOTH; MOTION CARRIED

**MOTION BY MR. BOOTH TO ACCEPT THE DIRECTOR'S REPORT;
SECONDED BY MR. STEVENS; MOTION CARRIED.**

ATTORNEY'S REPORT:

Mr. McDarris stated that all Consents have been executed and paid.

Mr. McDarris stated that the filing fee of \$20 is still being worked on with the Office of Administrative Hearings; the current status states that the filing fee will be paid directly to the Office of Administrative Hearings. Once the filing fee situation is completed, he will schedule the remaining appeals.

The following rule is now before the Rules Review Commission, 12NCAC 7D .0405. 12NCAC 7D .1300 and 12NCAC 7D .0109 were both approved in January 2010. 12NCAC 7D .0201, .0203, .0701, .0801, .0902 are all currently on hold.

12NCAC 7D .0702 is before you for adoption. If adopted, it will be sent to Rules Review.

MOTION BY MR. BOOTH TO ADOPT 12 NCAC 07D .0702; SECONDED BY JUDGE BURRIS; MOTION CARRIED.

12NCAC 7D .0807(e) this rule is ready to move forward as written and be submitted to Rules Review.

MOTION BY MR. JOHNSON TO FILE 12 NCAC 07D .0807(e) WITH THE RULES REVIEW COMMISSION; SECONDED BY MR. STEVENS; MOTION CARRIED.

Public Comment was received, discussed and accepted in the Committee meeting prior to the Board meeting.

12NCAC 7D .0807 armed registrant provision is up for adoption and to be sent to Rules Review.

MOTION BY MR. STEVENS TO ADOPT 12 NCAC 07D 0807 AND TO FILE THE RULE WITH THE RULES REVIEW COMMISSION; SECONDED BY MRS. PLEASANT; MOTION CARRIED

The following rules are all currently in Rules Review 12NCAC 7D .0203, 0706, 0806, 0904, 0911, 0202, 0702 and .0802 to be reported on at a later meeting.

In case 08CVS19771 Tim McIntyre vs. PPSB that was appealed in Superior Court, the Honorable Judge James Hardin Jr. reversed the ruling of the Board.

The 3rd Party Criminal Record Check Committee is still in the process of reviewing proposals.

Mr. McDarris reminded the Board members to file the annual Statement of Economic Interest with the State Ethics Commission.

Mr. McDarris received an email from a Private Investigator in Florida requesting clarification of the reciprocity agreement in regards to the actual origins of a case.

Mr. McDarris will take the case to the Florida Board for their interpretation as to the origin of the case.

MOTION BY JUDGE BURRIS THAT THE BOARD TAKE THE POSITION THAT THE CASE ORIGINATED IN FLORIDA; SECONDED BY MR. CLARK; MOTION CARRIED.

MOTION BY MR. STEVENS TO ACCEPT THE ATTORNEY'S REPORT AS PRESENTED; SECONDED BY MR. BOOTH; MOTION CARRIED

Mr. Robert Dale Pleasant addressed the Board and Mr. Larry Liggins to thank Mr. Liggins for all of his service to the Private Protective Services Board.

MOTION BY MR. JOHNSON TO ADJOURN; SECONDED BY MRS. PLEASANT; MOTION CARRIED.

11:55 AM Adjourned

Terry M. Wright, Director

Joyce McClure, Board Secretary